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Interoffice Communication

To Plant Managers, Safety Directors

From J. J. Hall

Date January 18, 1980

Subject OSHA Generic Cancer Policy

The long-awaited OSHA Generic Cancer Policy is expected to be published in the Federal Register today. The policy provides model health standards so that OSHA can speed the process of regulating carcinogenic chemicals. Some of the changes recommended by industry have been incorporated into this final standard but it still will likely be challenged in court by both labor and industry.

A critical element is that OSHA still contends that there is no safe level of exposure to a carcinogen and therefore exposures must be controlled to the lowest feasible level. The final resolution will be important because it will not only be the basis for future OSHA standards but also will establish policy precedent for other regulatory agencies.

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cc R. E. Lehmkuhl

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OSHA ANNOUNCES ITS LONG AWAITED CARCINOGEN POLICY

In a briefing on January 9, Grover Wrenn, formerly OSHA's Director of Health Standards, reviewed the provisions of the OSHA carcinogen policy and the administrative details concerning the policy's promulgation. The tentative plan for publication includes a signing ceremony and delivery to the Federal Register on January 15 with a tentative Federal Register publication date of January 18. Because an OSHA regulation is promulgated at the time it is delivered to the Federal Register office, the policy will be effective before it is published. Although the dates are fairly certain, Grover Wrenn pointed out that changes could be made up to the last moment. A more detailed announcement of the signing ceremony and related press briefings is expected within the next few days.

In beginning his presentation, Grover Wrenn pointed out that participants in the hearing process criticized the carcinogen proposal's lack of flexibility. Wrenn stated that OSHA recognized this fault and went to great lengths to correct it. Whether these efforts are satisfactory cannot be determined until there is an opportunity for a review of the final published policy. It can be only fair to say, however, that OSHA has addressed many of the proposal's deficiencies. As a result, any legal or administrative attacks on the policy will have to be carefully considered.

The following list includes many of the changes made by OSHA to increase the flexibility of the policy and a few of the definitions that remain controversial.

- The policy provides for a scientific review panel consisting of individuals selected by the Directors of the National Institute of Environmental Health Sciences, National Cancer Institute and the National Institute for Occupational Safety and Health. This panel would act on an ad-hoc basis to evaluate the scientific aspects of the policy. for a given chemical
- The policy sets up an explicit procedure for setting priorities. This procedure includes a list of substances, based on a brief review of current information, that may be considered for further study. Additionally, OSHA will establish two priority lists. These lists will include 10 Category I and 10 Category II substances.
- OSHA has deleted the controversial provisions requiring a temporary emergency standard for Category I substances.
- The model standards are more flexible and subject to review during each rulemaking procedure. Only two model standards are included in the final policy - one for temporary emergency standards and one for standards developed under the normal rulemaking process. This second model standard will include provisions for major industrial hygiene and health concepts when a Category I substance is being considered but will allow for the review of the details of the concepts on a case-by-case basis.
- Although the greatest weight will still be given to positive results, all issues will be considered and evaluated including non-positive scientific findings.
- The policy requires a mandatory review every three years or more often if necessary. Under this provision OSHA will make periodic inquiry to NCI, NIEHS, and NIOSH for any appropriate amendment. Additionally, anyone may petition for a change when substantial new

e.g. epidemiology showing no excess illness

evidence becomes available. Amendments to the general policy can also be accomplished during the consideration of an individual substance.

- OSHA is required to determine the technical and economical feasibility of using any substitutes before the use of substitutes is mandated.
- Categories III and IV have been deleted because they did not add to the effectiveness of the policy.
- The definitions of Categories I and II substances are as follows:

  Category I Potential Carcinogens - where found in (1) human, or (2) single mammalian species and in concordance with some other scientifically evaluated evidence, or (3) in a single mammalian species or where the Secretary determines that other evidence is not necessary.

  Category II Potential Carcinogens meet all Category I criteria, but is only suggestive or only in a single mammalian species and not in concordance with other scientific evaluated evidence.

As you can tell, the changes in the policy as compared with the proposal are substantial. We would appreciate your letting us know your views on the carcinogen policy as it is published and any legal or administrative actions you take or recommend that others take.